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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,337	03/06/2002	Yusuke Mizuno	742406-13	7055
78198	7590	05/25/2010		
Studebaker & Brackett PC One Fountain Square 11911 Freedom Drive, Suite 750 Reston, VA 20190			EXAMINER NEWLIN, TIMOTHY R	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/091,337

Applicant(s)

MIZUNO, YUSUKE

Examiner

Timothy R. Newlin

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/200)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Response to Amendment

The language added by amendment requires "counting the number of reception of ECM," but this language does not distinguish the claim over Wasilewski for the following reasons.

First, the recited "number of reception of ECM," broadly construed and without further definition in the claim, reads on any number that is received with the ECM. In Wasilewski, entitlement ID 2245 is an example of a received (binary) number that is identified, i.e. counted by the DHCTSE 627 in order to authorize a service. Col. 37, 32-58. Another example is the time stamp cited in the rejection below. In any event, the current language is not sufficiently concrete to limit the "number of reception" to a serially assigned number based on order received, or the total number of ECMs received so far.

Second, "counting part" is a vague term that in the computing art can be read generally to mean any processor that performs operations on numbers, binary or otherwise. The DHCTSE therefore meets this component.

Finally, even if the recited "number of reception" were construed narrowly, the claim does not tie the decoding function specifically to that number. Rather, the decoding step occurs in response to time-based criteria such as the ECM 1) being "within the limits of previewable time period"; 2) "not exceeding the upper-limit described as the previewable period", and 3) "not [having] passed the time described." This would

suggest to one of ordinary skill that the recited "number of reception of ECM" could refer to a number representing the time of reception of the ECM, rather than the total ECMs received.

Applicant's argument attempts to distinguish the current invention as one that relies on counting a number of received ECMs, rather than on timing parameters as generally taught by Wasilewski. The distinction is understood, but given the breadth of the added language and the fact that the preview decoding functionality itself is still explicitly tied to timing parameters, the claim itself does not distinguish over Wasilewski and it remains rejected as detailed below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wasilewski et al., US 6,157,719 in view of Marshall et al., US 7,710,601.

Regarding claim 46, Wasilewski discloses a receiving device comprising:
a receiving part **[service reception component 333, Fig. 3]** for receiving ECMs including an encrypted content comprised of plural playback section **[col. 6, 16-55,**

Figs. 2A and 2B; col. 35, 44-54; col. 9, 25-55; regarding plural playback sections, Wasilewski describes how, e.g., History channel may comprise plural program instances or segments, col. 2, 6-42] and a preview limit information describing a pre-viewable time period of said content data and a time information describing current time **[ECMs include time stamp, indicating time of creation. Given that ECMs are generated every few seconds or less (col. 4, 35-40), the time stamp amounts to an indication of the current time. Moreover, Wasilewski uses the time stamp as a proxy for current time as described at col. 39, lines 2-8 and 25-33]** and a pre-viewable period describing upper limit of received number, which are used for decoding said playback section **[col. 36, 3-9; col. 39, 35-56];**

a counting part for counting the number of reception of ECM **[number of reception, broadly construed reads on any number that is received with the ECM. Entitlement ID 2245 is an example of a received (binary) number that is identified, i.e. counted by the DHCTSE 627 in order to authorize a service. Col. 37, 32-58];**

a judging part for judging whether said preview limit of received ECM has passed said current time or not **[DHCTSE 627 determines whether preview window has expired or not, cols. 39-40, ll. 57-7];**

a preview generating part for decoding a specified playback section and generating preview with the use of said ECM which is within the limits of pre-viewable time period and is not exceed the upper limit described as the pre-viewable period, when judging said preview limit of received ECM has not passed the time described as said time information **[col. 39, 9-29; col. 2, 17-26];** and

a playback part for playing back the preview **[set top box outputs decrypted content to television set, col. 4, 41-52]**.

Wasilewski uses a streaming technique to display previews **[see col. 6, 34-42]** rather than storing the previews locally as Applicant's invention does. Marshall, on the other hand, teaches a preview system that uses a storage type receiving device, i.e. stores preview content at the receiver **[col. 1, 33-48; col. 2, 34-67]**. Marshall also discloses the playback of stored previews **[col. 3, 40-63]**. It would be obvious to one of ordinary skill that the MPEG streams described in Wasilewski could be locally stored using a conventional memory at the subscriber site as disclosed by Marshall. Local storage can and simplifies trick play functionality within a preview, and if done in advance **[see Marshall col. 1, 45-48]** eliminates transmission delay when a preview is selected. These benefits would be apparent to one with skill in the STB art and would reasonably motivate the combination of the references.

Regarding claim 47, Wasilewski discloses a receiving method, comprising the steps of:

receiving ECMs including an encrypted content **[col. 6, 16-55, Figs. 2A and 2B; col. 35, 44-54; col. 9, 25-55]** comprised of plural playback section and a preview limit information describing a previewable time period of said content data and a time information describing current time and a previewable period describing upper limit of received number, which are used for decoding said playback section **[col. 36, 3-9; col. 39, 35-56]**;

counting the number of reception of ECM **[number of reception, broadly construed reads on any number that is received with the ECM. Entitlement ID 2245 is an example of a received (binary) number that is identified, i.e. counted by the DHCTSE 627 in order to authorize a service. Col. 37, 32-58]**

judging whether said preview limit of received ECM has passed said time information or not **[DHCTSE 627 determines whether preview window has expired or not, cols. 39-40, ll. 57-7];**

decoding a specified playback section and generating preview with the use of said ECM which is within the limits of pre-viewable time period and is not exceed the upper limit described as the pre-viewable period, when judging said preview limit of received ECM has not passed the time described as said time information **[col. 39, 9-29; col. 2, 17-26];** and

playing back the preview **[set top box outputs decrypted content to television set, col. 4, 41-52].**

Wasilewski uses a streaming technique to display previews **[see col. 6, 34-42]** rather than storing the previews locally as Applicant's invention does. Marshall, on the other hand, teaches a preview method that uses a storage type receiving device, i.e. stores preview content at the receiver **[col. 1, 33-48; col. 2, 34-67]**. Marshall also discloses the playback of stored previews **[col. 3, 40-63]**. It would be obvious to one of ordinary skill that the MPEG streams described in Wasilewski could be locally stored using a conventional memory at the subscriber site as disclosed by Marshall. Local storage can and simplifies trick play functionality within a preview, and if done in

advance **[see Marshall col. 1, 45-48]** eliminates transmission delay when a preview is selected. These benefits would be apparent to one with skill in the STB art and would reasonably motivate the combination of the references.

Regarding claim 48, Marshall discloses a storage-type receiving device wherein the playing back part selects and plays back a desired preview out of a plurality of previews being stored while performing in response to another command different from the playback command **[preview clips are selected and displayed from a narrowed result set, i.e. the preview is displayed while the system filters out unwanted programs, Fig. 5, col. 3, 24-44];**

wherein the command differ from the playback command is a command for displaying a program table created in accordance with a category search **[viewer may limit programs by a category search. In the example given in Marshall, the user selects a category of “shows airing on May 12,” and “shows airing at 9 am.”];**

wherein the playing back part selects and searches a preview belonging to the category to be searched as a desired preview under the different command **[col. 3, 28-63].**

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Newlin whose telephone number is (571) 270-3015. The examiner can normally be reached on M-F, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Kelley/
Supervisory Patent Examiner, Art
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TRN